



Processing of Applications for Lease Modifications, Land Exchanges, Private Treaty Grants and Other Land Transactions

This practice note (“PN”) consolidates the prevailing general procedures and requirements in processing applications for lease modifications, land exchanges, private treaty grants and other land transactions¹ (collectively “land transactions”). It also simplifies the submission of documents by the applicants.

2. The general procedures for submission and processing of applications for land transactions are as follows (the key steps are summarised in the Simplified Procedural Flow-chart at **Appendix I**) :-

(i) Submission of Application

Applications for land transactions will only be considered and processed when submitted by (a) the registered owner of the lots concerned, or (b) the prospective purchaser under a registered Agreement for Sale and Purchase (“ASP”) with the written consent of the registered owner, or (c) their representative with written authorisation from the registered owner or prospective purchaser whom can act on their behalf.

For land exchanges, only an application where the applicant or its wholly-owned subsidiaries have collectively acquired or already owned all of the lots to be surrendered or are prospective purchasers under a registered ASP with the registered owner’s written consent, will be accepted for processing.

Applicants should follow the Application Checklist at **Appendix II** when

¹ This PN does not cover land transactions under the Small House Policy and land transactions of temporary nature.

preparing and submitting their applications. Individual applicant is also required to give a written confirmation that he has read and understood the Note on Use of Personal Information Required in the Application at **Appendix III** and that he gives consent to the disclosure of his personal data to other Government bureaux or departments (“B/Ds”) for the purpose of considering and processing his application.

The Lands Department (“LandsD”) will request further information to validate an application where necessary.

(ii) **Payment of Initial Administrative Fee and Initial LACO Fee**

After initial checking, the applicant would be advised if the application can be further processed. If the application is valid for processing, demand note(s) for the initial administrative fee (and initial Legal Advisory and Conveyancing Office (“LACO”) fee for cases involving surrender of land to the Government) will be issued to the applicant for settlement on or before the date specified in the preliminary reply letter. The initial administrative fee and initial LACO fee may only represent part of the total administrative fee and total LACO fee chargeable for the land transaction. The balance of administrative fee and balance of LACO fee (if any) will be demanded at the offer stage. The application will be deemed withdrawn if the initial administrative fee and initial LACO fee (if demanded) are not settled on or before the specified date.

(iii) **Title Checking**

For land exchanges, applicants will be required by LACO to submit title deeds for all the lots to be surrendered for checking. Applicants should rectify all title defects, settle all title issues, clear all encumbrances (e.g. outstanding premium instalments) and prove good title to the lots to be surrendered to LACO’s satisfaction within the specified period. For the general procedures and points-to-note for proving good title to the lots to be surrendered in land exchanges, please refer to **Appendix IV**.

(iv) **Submission to District Lands Conference or to Officers with Delegated Authority**

Applications will be processed by the respective District Lands Office

(“DLO”) or a Specialist Section (“Section”) of LandsD, and other relevant B/Ds may be consulted as appropriate. Applicants of major land transactions would be provided with a copy of the materials circulated to B/Ds which may contact the applicant for clarifications as necessary.

Depending on the nature of the application, it may be submitted to an inter-departmental forum known as the District Lands Conference (“DLC”) or to officers with delegated authority for consideration and decision.

For applications to be considered by DLC, the applicant would be invited to attend DLC to provide further background information or clarifications as necessary. The Chairperson of DLC may ask the applicant to leave prior to making a decision on his case. Applicants who wish to attend DLC should confirm their attendance at least two working days prior to DLC or they may make written submissions in lieu of personal attendance.

Copies of the relevant papers to be discussed at DLC would be sent to the applicant. The papers including the draft document for the proposed land transaction are provided to the applicant for information on a confidential basis. Applicants should not disclose the contents of these documents to any parties without LandsD’s written permission. Furthermore, as the contents of these documents have not been decided upon, the Government does not consider itself bound in any way.

(v) **Provisional Offer of Basic Terms**

After LandsD made a decision for the land transactions, applicants would be issued with a provisional basic terms offer (“PBTO”) (without the premium amount) or they would be advised either:

- (a) the application is rejected; or
- (b) the application is agreed in-principle subject to the resolution of specified major issues and/or statutory procedures.

If a PBTO is made, the applicant will be required to confirm his acceptance of the offer by the date specified in the PBTO. If the applicant’s confirmation of acceptance is not received by the specified date, he will be deemed to have withdrawn from the proposed land transaction in which any administrative

fee and/or LACO fee paid will be forfeited.

(vi) **Premium Assessment**

For land transactions requiring the assessment of land premium, the applicant's acceptance of the PBTO will trigger the premium assessment procedures as set out at **Appendix V**.

(vii) **Binding Offer of Basic Terms**

After the Government has decided on the amount of premium payable (other than nil or a nominal premium (e.g. \$1,000)) and, in case of land exchanges, LACO is satisfied with the title to the lots to be surrendered or that the title encumbrances are rectifiable before completion of the land transaction, a binding offer of basic terms ("BBTO") (including the premium amount) together with the draft document(s) for the proposed land transaction ("the Document(s)") will be sent to the applicant. If the terms and conditions set out in the BBTO and the Document(s) are acceptable, the applicant shall, on or before the date to be specified in the BBTO : (a) execute the Acceptance Letter attached to the BBTO and return it together with relevant supporting documents to prove due execution, (b) pay the balance of administrative fee and balance of LACO fee (if any), (c) pay 10% of the premium as deposit, and (d) provide a letter from the mortgagee/chargee (if applicable) confirming that they have no objection to the proposed land transaction on the terms offered to the applicant. Failure to do so will be deemed withdrawal by the applicant from the proposed land transaction, in which event, any administrative fee and LACO fee paid will be forfeited.

Acceptance of the offer including the premium and due payment of the premium deposit, balances of administrative fee and LACO fee (if any) on or before the specified date will constitute a binding contract between the Government and the applicant on the land transaction. The date of receipt by LandsD of the applicant's acceptance shall be the date upon which a binding contract is entered into ("the Contract Date") between the Government and the applicant. Upon receipt of the applicant's acceptance, LandsD will proceed to arrange execution of the Document(s).

(viii) **Appeal against the Premium**

If the applicant does not find the premium as stated in the BBTO acceptable, he may appeal by (a) returning the Appeal Letter attached to the BBTO duly signed while confirming the acceptance of all basic terms (other than premium), and (b) settling the balances of administrative fee and LACO fee (if any) on or before the date specified in the BBTO. The procedures for handling appeals against premium assessment are set out at **Appendix V**.

(ix) **Issue of Revised Offer on Premium Assessment**

After the premium has been re-assessed, a revised BBTO will be made to the applicant following the procedures as set out in paragraph 2(vii) above. The applicant will be informed of the amount of the prevalent total administrative fee payable. Any administrative fee paid before will be taken as part of the total administrative fee, and the balance (if any) will be demanded when a revised BBTO is made.

If the revised premium offered by the Government is in the same amount as the applicant has submitted in accordance with the Appeal Letter but the applicant does not accept the revised premium, the applicant will be deemed to have withdrawn from the proposed land transaction in which event the administrative fee and LACO fee (if any) paid will be forfeited.

(x) **Execution of the Document(s)**

When the Document(s) is/are sent out to the applicant for execution, the demand notes for the balance of the premium and the fee(s) payable to the Land Registry for preparation and verification of memorial(s) (if applicable) and registration of the Document(s) will also be sent to the applicant for settlement. The applicant must execute the Document(s) and settle the demand notes on or before the due date specified in the letter being a date within 12 weeks of the Contract Date. Failure by the applicant to comply with these requirements will constitute a breach of contract and without prejudice to any other rights and remedies available to the Government, the administrative fee, LACO fee and the deposit paid will be forfeited.

3. The procedures in paragraph 2 (vi) to (x) above as shown in the Simplified Procedural Flow-chart at Appendix I only apply to land transactions chargeable to premium. For land

transactions with no premium or nominal premium (e.g. \$1,000) payable, the Government may normally issue a single offer after the case is decided by DLC or officers with delegated authority with the nominal premium (if payable) demanded when the Document(s) are sent to the applicant for execution. A two-stage offer may be adopted depending on the circumstances of the cases.

4. In case the due date for settlement of any payment or return of acceptance or completion of an act required is a public holiday² or a Saturday, the respective due date would include the next following day, not being a public holiday or a Saturday. In case a Black Rainstorm Warning Signal or a Tropical Cyclone Warning Signal No.8 or above or an announcement on "extreme conditions" caused by super typhoon (collectively "inclement weather") is issued by the Government on the due date, the due date will be extended to the next following working day not being a day with inclement weather.

5. Every application submitted to LandsD pursuant to this PN will be considered on its own merits by LandsD at its absolute discretion acting in its capacity as a landlord. This PN shall not constitute any representation on the part of the Government or other authorities or give rise to any expectation on the part of the applicant that any application submitted to LandsD will be processed or approved.

6. This PN is issued for general reference purposes only.. All rights to modify the whole or any part of this PN are hereby reserved. The procedures and requirements may be modified by the Government for special cases such as applications within New Development Areas under the Lands Administration Office ("LAO") Practice Note No. 1/2022 or any other cases as decided by the Government.

7. This PN takes immediate effect and supersedes LAO Practice Note Nos. 3/1999 (formerly known as "APSS 2/99"), 9/2000, 4/2001, 1/2006, 5/2006, 9/2006, 4/2007, 5/2007, 3/2008 and 3/2009 and 4/2009.

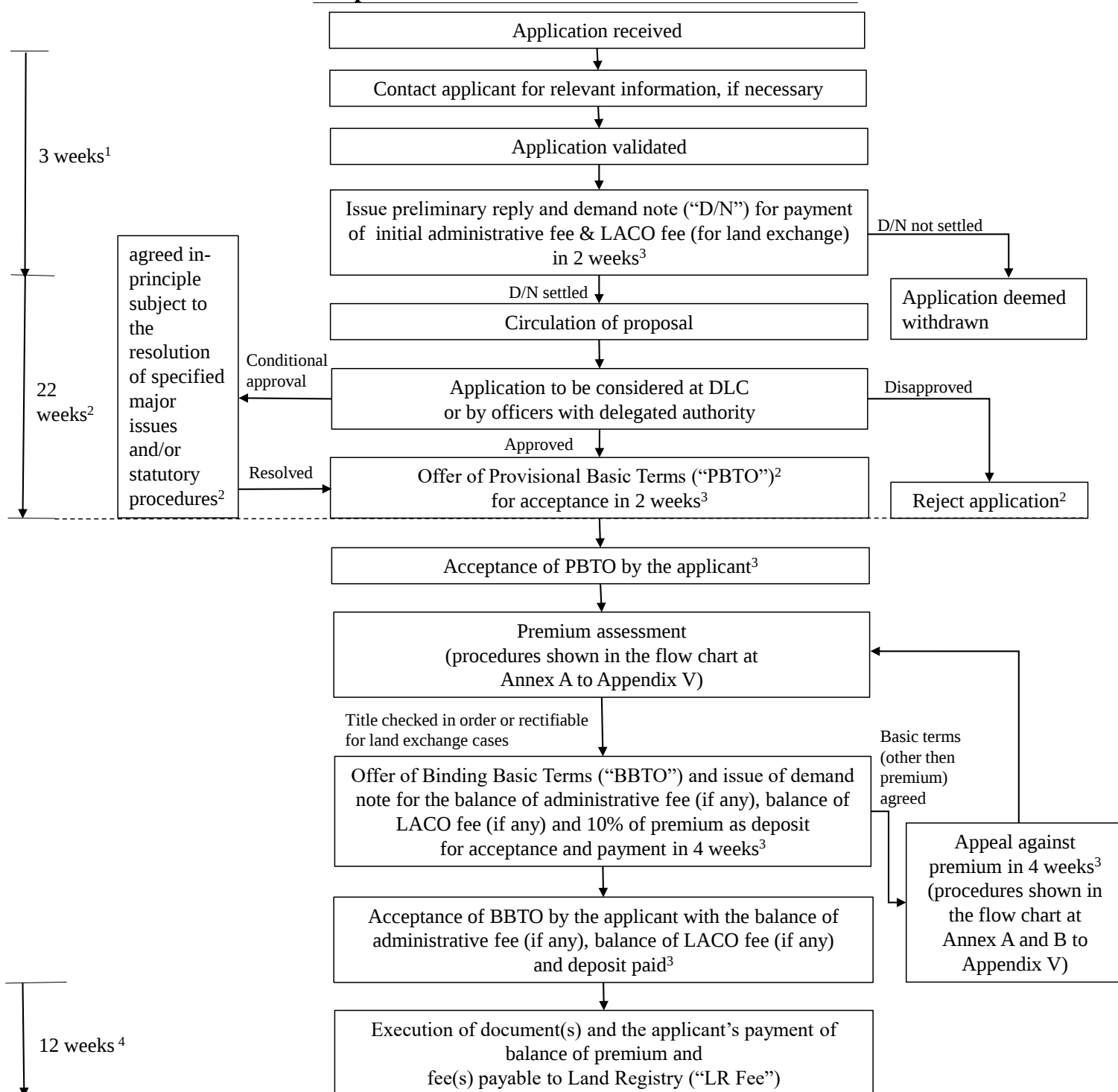


(Andrew LAI)

Director of Lands

31 March 2023 .

² Public holiday is as defined in the Interpretation and General Clauses Ordinance (Cap. 1)

Simplified Procedural Flow-chart under the BBTO**Note :**

1. Time target under Lands Department Performance Pledge to issue preliminary reply within 3 weeks advising the applicant if the application can be processed.
2. Time target under Lands Department Performance Pledge to advise the applicant within 22 weeks of the date of the preliminary reply if the application is rejected; or a provisional offer is made; or the application is agreed in-principle subject to the resolution of specified major issues and/or statutory.
3. The due date for payment of initial administrative fee & LACO fee; and acceptance (including appeal against premium) will be specified in the relevant correspondence issued by Lands Department. In general 2 weeks are allowed for the payment of initial administrative fee & LACO fee while 2 weeks and 4 weeks are allowed for acceptance of PBTO and BBTO (including appeal against premium) respectively. The time limits are subject to review from time to time.
4. The applicant is required to execute the document(s) and pay the balance of premium and LR Fee by any date within 12 weeks of the Contract Date as required by the Government.

Application Checklist**A. Information / Documents that must be submitted¹ :**

- | | | |
|-------|---|--------------------------|
| (i) | A detailed application letter clearly identifying the property ² concerned, the variations being sought in respect of any terms and conditions of the existing lease conditions including the modification of any restrictions and development parameters included in the existing lease conditions (e.g. proposed user, maximum gross floor area, site coverage, number of storeys/building height, etc.) | ☐ |
| (ii) | A copy of an up-to-date location / site plan on an appropriate scale (normally 1:1000) showing the property. | ☐ |
| (iii) | A copy of the Town Planning Board approval letter for the proposed development, if applicable. | ☐ |
| (iv) | A copy ³ of a computer printout containing the current ownership particulars of the property. | ☐ |
| (v) | If submitted by an agent, a written authorization from the principal who should be the registered owner or a prospective purchaser ⁴ of the property. | ☐ |
| (vi) | If submitted by a prospective purchaser ⁴ , a written consent from the registered owner. | ☐ |
| (vii) | If submitted by an individual applicant, a written confirmation that he has read and understood the Note on Use of Personal Information Required in the Application at Appendix III to Land Administrative Office Practice Note No. 2/2023 and that he consents to disclosure of his personal data to other Government bureaux or departments for the purpose of considering and processing his application. | ☐ |

B. Information / Documents that will facilitate the processing of the application :

- | | | |
|--------|--|--------------------------|
| (viii) | An extract copy of the relevant Outline Zoning Plan (together with the explanatory notes, as appropriate) showing the property. | ☐ |
| (ix) | For application involving portion(s) of a lot, or sub-divisions of any lots, to help expedite the verification of site areas and site boundaries, all relevant assignment plans or Deed Poll plans should be provided together with any relevant information relating to the delineation of the boundaries of these sub-divisions. | ☐ |
| (x) | Sketch plans illustrating the proposed development, if available. | ☐ |

- (xi) Copies of any approved submissions by other relevant authorities relating to the development proposal or other relevant study assessment reports, if available (e.g. Approved Master Layout Plans under the Town Planning Ordinance, Environmental /Traffic / Drainage Impact Assessment Reports etc.)

☐

Notes :

- ¹ Please put a tick in the relevant box if applicable unless otherwise specified; and delete as appropriate.
- ² Property includes all lots involved in a lease modification or land exchange application.
- ³ The copy of the computer printout should be certified by the Land Registry or by the solicitor acting for the applicant. Certification of the documents should be done not more than one month before submission of the application. Either hard copy or soft copy of the said document is acceptable.
- ⁴ A prospective purchaser is an intending purchaser under an existing Agreement for Sale and Purchase registered in the Land Registry.

**Note on Use of Personal Information Required
in Applications for Land Transactions to Lands Department**

Purpose of Collection	The personal data provided in application pursuant to this Practice Note and Appendix II will be used by the Lands Department for the purpose of considering and processing the application. The provision of the personal data is obligatory. If you do not provide the personal data, the Lands Department may not be able to process your application.
Class of Transferees	The personal data you provided may be disclosed to other Government bureaux/departments for the purpose mentioned above.
Access to Personal Data	The individual who is the subject of the personal data has a right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance. Such right of access includes the right to obtain a copy of the personal data provided upon payment of the applicable charge.
Enquiries	Enquiries concerning the personal data collected, including the request for access and corrections, should be addressed to: Departmental Personal Data Controlling Officer of the Lands Department 20/F., North Point Government Offices 333 Java Road, North Point Hong Kong

**Procedures and Points-to-note for Proving Good Title to the Lots to be
Surrendered in Land Exchange**

- (1) After payment of the initial administrative fee and the initial LACO fee, the applicant will be required by LACO to submit title deeds for all the lots to be surrendered for checking.
- (2) If a PBTO is made and the applicant accepts it, he should clear any outstanding title issues with LACO to render the Government in a position to make a formal offer of basic terms with a view to completion of the land transaction in accordance with the time frame specified in the BBTO.
- (3) If a BBTO is made and the applicant accepts it, he must comply with the following (if applicable) before the proposed land transaction can be completed:
 - (a) If the lots to be surrendered are subject to existing mortgage(s) or legal charge(s), such mortgage(s) or legal charge(s) shall be discharged before the execution of the Document(s). A draft release must be submitted to LACO for approval within 8 weeks of the Contract Date.
 - (b) If the lots to be surrendered are vested in different owners, the applicant must complete unification of title to the lots and arrange for the relevant instrument(s) completing such unification of title for adjudication, stamping and registration at the Land Registry within 8 weeks of the Contract Date.
 - (c) If the title of the lots to be surrendered is not completely in order, the applicant must rectify all the title defects or prove good title to the lots to be surrendered to the satisfaction of LACO within 8 weeks of the Contract Date.
 - (d) If the applicant is only the prospective purchaser of the lots concerned under a registered ASP, the applicant must complete the assignment of the lots and arrange for the assignment to be adjudicated, stamped and registered at the Land Registry within 8 weeks of the Contract Date.

**Premium Assessment and Appeal against Premium Assessment
for Lease Modifications, Land Exchanges,
Private Treaty Grants and Other Land Transactions**

(1) Procedures for Premium Assessment

(i) Initiation of Premium Assessment

Unless some essential procedures are still outstanding, the applicant's acceptance of PBTO will normally follow by the next step of premium assessment immediately.¹ To facilitate the preparation of premium assessment, the applicant may provide DLO/ Section with such information which he considers useful to the premium assessment within 2 weeks from the date of the PBTO. A submission prepared by DLO/Section will be provided to the Valuation Section in LandsD/HQ ("Valuation Section") for action under paragraphs 1(ii) and 1(iii) below.

(ii) Preparation of the Premium Assessment Submission

Upon receipt of a submission from DLO/Section, the Valuation Section will notify the applicant and prepare the valuation assessment to the Valuation Committee (V. Com.)/Valuation Conference (V. Conf.) (as the case may be) for consideration and approval. During this period, the applicant may submit additional information and/or clarifications he considers relevant and useful to the premium assessment directly to Valuation Section. For the avoidance of doubt, the Valuation Section has the absolute discretion on whether and how to consider the information on the understanding that this shall not cause delay in the referral of the premium assessment to V. Com./V. Conf. No negotiation on the premium assessment would be permitted.

(iii) Consideration and Approval of the Premium Assessment

The assessment will be considered by either V. Com. or V. Conf., as the case may be, to determine the premium. V. Conf. will also consider the appeal against premium assessment previously approved by V. Com.

¹ For cases such as those requiring the completion of statutory procedure as a condition for execution of the land document, the actual timing of the premium assessment will be adjusted to take into account the progress of the statutory process involved

(iv) **Binding Basic Terms Offer**

After the premium has been approved by V. Com./V. Conf., BBTO including the premium amount will be issued to the applicant.

(v) **Appeal against the Premium**

If the applicant does not find the premium acceptable, the applicant may appeal against the premium assessment, by returning the appeal letter (“Appeal Letter”) enclosed at the BBTO within the period specified in the BBTO. Once the Appeal Letter is submitted, the premium stated at the BBTO will automatically lapse. Any revised assessment to be carried out will be at the market value prevailing at the time of re-assessment, which could be the same as, or higher or lower than, the premium originally offered.

Upon receipt of the Appeal Letter, the Valuation Section will verbally advise the valuation approach and major parameters of premium assessment adopted by V. Com. or V. Conf., as the case may be, to the applicant for his preparation of the appeal report and counter-offer. The applicant must submit a counter-offer of premium together with supporting information to justify the amount of the counter-offer within 3 months from the date of the Appeal Letter.

(vi) **Consideration of Appeal against Premium Assessment**

On receipt of an appeal against the premium assessment, DLO/Section will refer the case to the Valuation Section. Prior to submission of the revised premium assessment to V. Conf. for considering the premium appeal, case officer of the Valuation Section will communicate with the applicant on a non-committal and without prejudice basis. The case officer will exchange views with the applicant on matters relevant to the premium assessment, which may include the basis of valuation, gross development values, construction costs of the development, comparables and relevant transaction evidence etc. Normally, at the final stage of premium assessment, the case officer will also enquire if the applicant will update his counter-offer of premium for the proposed transaction for incorporation into a submission to V. Conf.

(vii) **Attendance at Valuation Conference**

The applicant will be invited to attend the meeting of the V. Conf. in

connection with his premium appeal and will have the opportunity to elaborate on any information and arguments which he may have already provided in support of a revised assessment. Deliberation of the case by members of the V. Conf. will take place after the applicant has left the meeting.

To help expediting the premium appeal process, LandsD may consider acceding to a request made by the applicant to be informed of the revised premium figure as determined by the V. Conf. prior to the issue of the BBTO by DLO/Section. Upon receipt of such request, the applicant may be invited to attend the next V. Conf. meeting (normally the following week) in which he will be informed of the revised premium figure on a without prejudice and subject to contract basis. At that meeting, the applicant may comment on the revised premium figure. Deliberation of the V. Conf. will take place after the applicant has left the meeting in case an improved counter-offer is made.

For the avoidance of doubt, all discussions with the applicant at the V. Conf. meetings are conducted on a without prejudice and subject to contract basis. LandsD reserves all its rights in making a BBTO which may be different from what have been discussed at the V. Conf. meetings.

(viii) **Issue of Revised Offer on Premium Assessment**

After the premium has been re-assessed, a revised BBTO will be made. After the revised BBTO is issued, the case officer will verbally advise the applicant of the major arguments/comparable transactions/parameters contained in the applicant's submission that have not been accepted by the V. Conf. The arrangement serves to facilitate the applicant's consideration of the premium at the revised BBTO.

(ix) **Fast Track Procedure for Processing the Second and Third Appeals Against Premium Assessment**

(a) **Triggering the Fast Track Procedure for Second and Third Appeal²**

² To support this fast track procedure, the revised BBTO (excluding the enclosures such as plans and special conditions, etc. Document(s)) will be sent by fax to the applicant whereas the original of the offer letter together with the enclosures Document(s) will be sent by post. Applicants may also arrange with the DLO/Section to collect the offer letter by hand.

After a decision has been made by V. Conf. on the first and second premium appeal, a revised BBTO with the option for fast track procedure will be made by DLO/Section to the applicant. If the applicant disagrees with the amount of the revised premium, he may submit an appeal in the usual way, i.e. by returning the Appeal Letter within the period specified in the revised BBTO and submitting a counter-offer of premium supported by justifications within three months from the date of Appeal Letter. Alternatively, the applicant may trigger the fast track procedure by returning the Appeal Letter and submitting a counter-offer supported by justifications within 12 working days³ from the date of the revised BBTO. For the avoidance of doubt, the fast track procedure is limited and applicable to the second and third appeal only. To facilitate fast track action, the counter-offer together with the justifications shall be submitted concurrently to both DLO/Section and the Valuation Section.

Once the Appeal Letter is submitted, the premium stated at the revised BBTO will automatically lapse. The revised premium will be assessed with reference to the market value prevailing at the time of re-assessment, which could be the same as, or higher or lower than, the premium previously offered.

(b) Counter Offers qualified for Fast Track Procedure

Upon receipt of counter-offer together with justifications within the 12-working days period as specified in paragraph 1(ix)(a) above, the Valuation Section will consider whether the counter-offer is qualified for processing under the fast track procedure. If it is considered not eligible, the case will join the normal queue for appeals and be dealt with under the normal procedure. In either situation, the applicant will be notified in writing accordingly not later than 7 working days from the expiry of the 12-working days period.

While all cases that meet the requirement referred to in paragraph 1(ix)(a) above for triggering the fast track procedure will generally be qualified, there are cases not qualified for processing under the fast track procedure including, examples where (a) no justifications have

³ The reference to working days excludes Saturdays, Sundays and public holidays.

been submitted; (b) no fresh justifications are submitted i.e. repeated same justifications which have already been considered by V. Conf. at the previous appeal; (c) the justifications submitted would require follow up actions that could not be achieved within the time frame for processing appeals under the fast track procedure, e.g. policy clearance or legal advice would need to be obtained in the first place rendering actions for fast track impracticable; (d) amendments to the basic terms of the proposed transaction are being proposed, etc.

For a qualified counter-offer to be processed under the fast track procedure, a revised BBTO will be issued by DLO/Section to the applicant within 24 working days from the date of receipt of the counter-offer by the Valuation Section.

In the event that the justifications are not submitted simultaneously with the counter-offer but both the counter-offer and the justifications are submitted within the 12-working days period mentioned in paragraph 1(ix)(a) above, the 24-working days period will only count from the date when both the counter-offer and the justifications have been received by the Valuation Section. The applicant will be so notified in writing accordingly not later than 7 working days from the expiry of the 12-working days period.

(c) **Consideration of the Second and third Appeal**

The procedures are similar to those set out in paragraph 1(vi) above. While clarifications on the justifications submitted may be made by the applicant, normally, any further new evidence submitted after the expiry of the 12-working days period mentioned in paragraph 1(ix)(a) above will unlikely be considered due to time constraint under the fast track procedure.

(d) **Attendance at Valuation Conference**

Applicant will be invited to attend the meeting of the V. Conf. to consider his counter-offer similar to the procedures as set out in paragraph 1(vii) above.

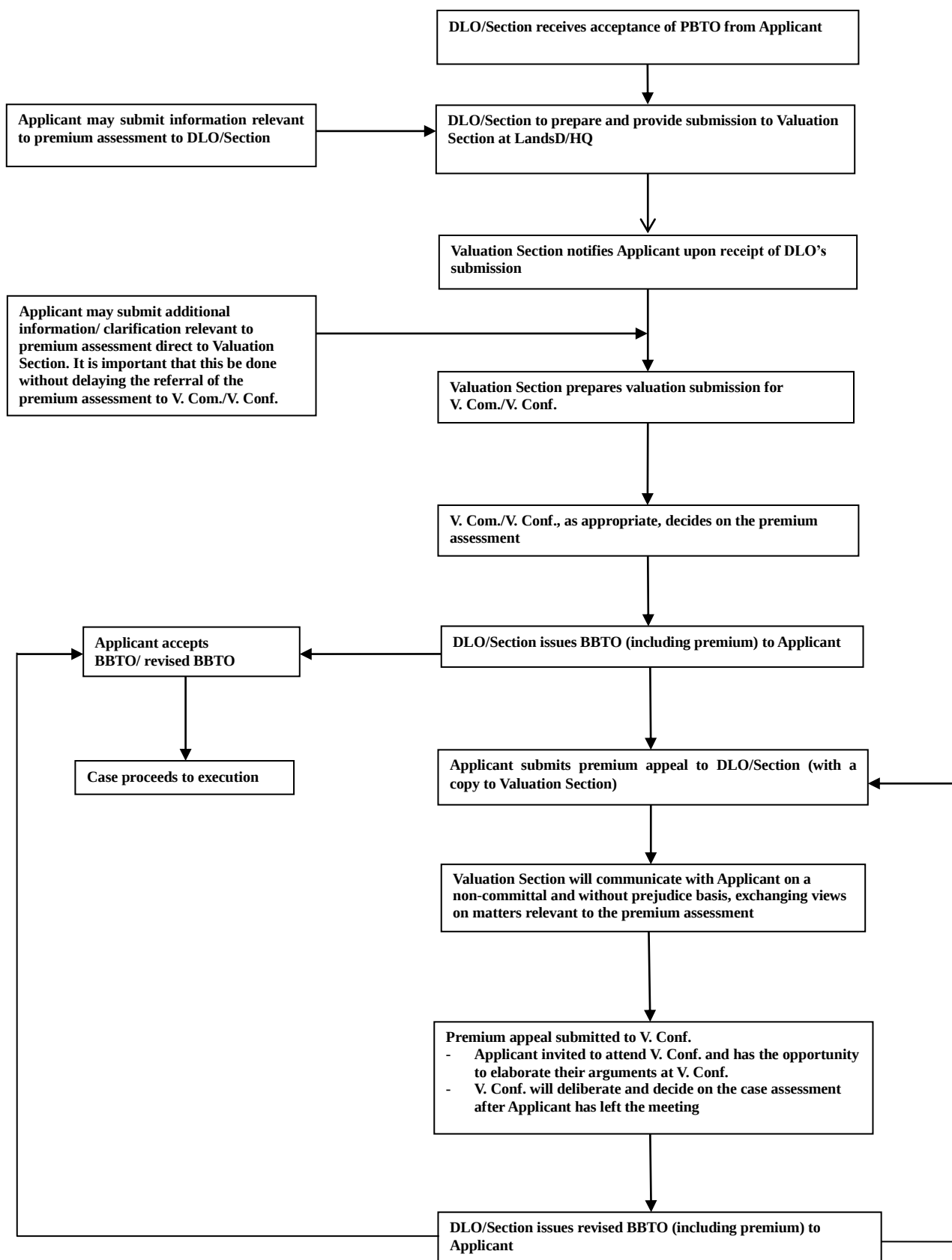
(e) **Issue of a Revised Offer**

The procedures are similar to those set out in paragraph 1(viii) above but the fast track procedure will no longer be available to the fourth appeal and any subsequent appeals.

2. Flow charts which highlight the key steps referred to above are put at Annex A and B hereto.

Flow Chart

(Premium Assessment Procedure for Lease Modifications, Land Exchanges, Private Treaty Grants and Other Land Transactions)



Flow Chart
(Fast Track Procedure for Processing the Second and Third Appeals
Relating to Premium Assessment for Lease Modifications, Land Exchanges,
Private Treaty Grants and Other Land Transactions)

